

(e) *Form of briefs.* All briefs containing more than 10 pages shall include a table of contents, an alphabetized table of cases, a table of statutes, and a table of other authorities cited, with references to the pages of the brief wherein they are cited.

(f) *Scandalous or impertinent matter.* Any scandalous or impertinent matter contained in any brief or pleading or in connection with any oral presentation in a proceeding may be stricken on order of the Commission or the hearing officer.

[60 FR 32796, June 23, 1995, as amended at 69 FR 13176, Mar. 19, 2004; 70 FR 72569, Dec. 5, 2005]

§ 201.153 Filing of papers: Signature requirement and effect.

(a) *General requirements.* Following the issuance of an order instituting proceedings, every filing of a party represented by counsel shall be signed by at least one counsel of record in his or her name and shall state that counsel's business address and telephone number. A party who acts as his or her own counsel shall sign his or her individual name and state his or her address and telephone number on every filing.

(b) *Effect of signature.* (1) The signature of a counsel or party shall constitute a certification that:

(i) the person signing the filing has read the filing;

(ii) to the best of his or her knowledge, information, and belief, formed after reasonable inquiry, the filing is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(iii) the filing is not made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of adjudication.

(2) If a filing is not signed, the hearing officer or the Commission shall strike the filing, unless it is signed promptly after the omission is called to the attention of the person making the filing.

§ 201.154 Motions.

(a) *Generally.* Unless made during a hearing or conference, a motion shall be in writing, shall state with particularity the grounds therefor, shall set

forth the relief or order sought, and shall be accompanied by a written brief of the points and authorities relied upon. All written motions shall be served in accordance with § 201.150, be filed in accordance with § 201.151, meet the requirements of § 201.152, and be signed in accordance with § 201.153. The Commission or the hearing officer may order that an oral motion be submitted in writing. Unless otherwise ordered by the Commission or the hearing officer, if a motion is properly made to the Commission concerning a proceeding to which a hearing officer is assigned, the proceeding before the hearing officer shall continue pending the determination of the motion by the Commission. No oral argument shall be heard on any motion unless the Commission or the hearing officer otherwise directs.

(b) *Opposing and reply briefs.* Except as provided in § 201.401, briefs in opposition to a motion shall be filed within five days after service of the motion. Reply briefs shall be filed within three days after service of the opposition.

(c) *Length limitation.* No motion (together with the brief in support of the motion), brief in opposition to the motion, or reply brief shall exceed 7,000 words, exclusive of any table of contents or table of authorities. The word limit shall not apply to any addendum that consists solely of copies of applicable cases, pertinent legislative provisions or rules, or relevant exhibits. Requests for leave to file motions and briefs in excess of 7,000 words are disfavored. A motion or brief, together with any accompanying brief, that does not exceed 15 pages in length, exclusive of pages containing the table of contents, table of authorities, and any addendum that consists solely of copies of applicable cases, pertinent legislative provisions, or rules and exhibits, but inclusive of pleadings incorporated by reference, is presumptively considered to contain no more than 7,000 words. Any motion or brief that exceeds these page limits must include a certificate by the attorney, or an unrepresented party, stating that the document complies with the length limitation set forth in this paragraph and stating the number of words in the document. The person preparing the

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certificate may rely on the word count of a word-processing program to prepare the document.

[60 FR 32796, June 23, 1995, as amended at 69 FR 13177, Mar. 19, 2004; 70 FR 72569, Dec. 5, 2005]

§ 201.155 Default; motion to set aside default.

(a) A party to a proceeding may be deemed to be in default and the Commission or the hearing officer may determine the proceeding against that party upon consideration of the record, including the order instituting proceedings, the allegations of which may be deemed to be true, if that party fails:

(1) To appear, in person or through a representative, at a hearing or conference of which that party has been notified;

(2) To answer, to respond to a dispositive motion within the time provided, or otherwise to defend the proceeding; or

(3) To cure a deficient filing within the time specified by the commission or the hearing officer pursuant to § 201.180(b).

(b) A motion to set aside a default shall be made within a reasonable time, state the reasons for the failure to appear or defend, and specify the nature of the proposed defense in the proceeding. In order to prevent injustice and on such conditions as may be appropriate, the hearing officer, at any time prior to the filing of the initial decision, or the Commission, at any time, may for good cause shown set aside a default.

§ 201.160 Time computation.

(a) *Computation.* In computing any period of time prescribed in or allowed by these Rules of Practice or by order of the Commission, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or Federal legal holiday (as defined in § 201.104), in which event the period runs until the end of the next day that is not a Saturday, Sunday, or Federal legal holiday. Intermediate Saturdays, Sundays, and Federal legal holidays

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shall be excluded from the computation when the period of time prescribed or allowed is seven days or less, not including any additional time allowed for service by mail in paragraph (b) of this section. If on the day a filing is to be made, weather or other conditions have caused the Secretary's office or other designated filing location to close, the filing deadline shall be extended to the end of the next day that is neither a Saturday, a Sunday, nor a Federal legal holiday.

(b) *Additional time for service by mail.* If service is made by mail, three days shall be added to the prescribed period for response unless an order of the Commission or the hearing officer specifies a date certain for filing. In the event that an order of the Commission or the hearing officer specifies a date certain for filing, no time shall be added for service by mail.

[60 FR 32796, June 23, 1995, as amended at 69 FR 13177, Mar. 19, 2004]

§ 201.161 Extensions of time, postponements and adjournments.

(a) *Availability.* Except as otherwise provided by law, the Commission, at any time, or the hearing officer, at any time prior to the filing of his or her initial decision or, if no initial decision is to be filed, at any time prior to the closing of the record, may, for good cause shown, extend or shorten any time limits prescribed by these Rules of Practice for the filing of any papers and may, consistent with paragraphs (b) and (c) of this section, postpone or adjourn any hearing.

(b) *Considerations in determining whether to extend time limits or grant postponements, adjournments and extensions.* (1) In considering all motions or requests pursuant to paragraph (a) or (b) of this section, the Commission or the hearing officer should adhere to a policy of strongly disfavoring such requests, except in circumstances where the requesting party makes a strong showing that the denial of the request or motion would substantially prejudice their case. In determining whether to grant any requests, the Commission or hearing officer shall consider, in addition to any other relevant factors:

(i) The length of the proceeding to date;